

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

AXIS SURPLUS INSURANCE COMPANY,)
)
Plaintiff,) Case No. 4:22-cv-00328
)
vs.)
)
TRISTAR COMPANIES, LLC,)
)
Defendant.)

MOTION FOR LEAVE TO AMEND COUNTERCLAIM

Defendant TriStar Companies, LLC (“Tristar”), by and through the undersigned counsel, files its Motion to Amend Counterclaim to Axis Surplus Insurance Company’s (“Axis”) Complaint, and states as follows:

1. This action was filed on March 31, 2022 involving an insurance coverage dispute related to an underlying lawsuit filed against TriStar arising out of an alleged wrongful death occurring on December 10, 2021 as a result of a tornado that struck an Amazon warehouse in Edwardsville, Illinois. Axis’ Complaint alleges no insurance coverage for the underlying lawsuit. In response, TriStar filed a Counterclaim on April 15, 2022 seeking a declaratory judgment that coverage was available for the underlying lawsuit and also seeking breach of contract to recover damages for Axis’ failure to provide coverage and defend TriStar.

2. The Court entered its Case Management Order on June 16, 2022, which, among other things, states that all motions for the amendment of pleadings shall be filed no later than July 15, 2022.

3. Since the filing of the Counterclaim, TriStar has been named a defendant in two additional lawsuits arising from the same accident at the Amazon warehouse on December 10,

2021. Furthermore, TriStar has been provided notice of two additional threatened claims arising out of the same accident.

4. TriStar seeks leave to amend its Counterclaim to allege coverage for additional lawsuits and claims arising out of the same accident giving rise to the original claim for coverage.

5. This motion is being brought within the time limits provided in the Case Management Order and will not result in prejudice to any party.

6. TriStar files a Memorandum of Law contemporaneously herewith and also attached hereto as Exhibit 1 its proposed Amended Answer, Affirmative Defenses, and Counterclaim. TriStar's Answer and Affirmative Defenses to Axis' Complaint remains unchanged.

WHEREFORE, TriStar Companies, LLC respectfully requests that the Court enter its Order granting it leave to file the Amended Answer, Affirmative Defenses, and Counterclaim.

Respectfully submitted,

BLITZ, BARDGETT & DEUTSCH, LC

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CERTIFICATE OF SERVICE

The undersigned certifies that on July 15, 2022, the foregoing was served via the Court's CM/ECF system on all counsel of record.

/s/ Christopher O. Bauman _____